

1
2
3
4
5
6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
8

9 United States of America,
10 Plaintiff/Respondent,
11 vs.
12 Gregory Lynn Shrader,
13 Defendant/Movant.

No. CV-17-01708-PHX-NVW (ESW)
CR-14-00355-PHX-NVW

ORDER

14
15 Pending before the court is the Report and Recommendation (“R&R”) of Magistrate
16 Judge Eileen S. Willett (Doc. 50) regarding Movant’s Second Amended Motion Under 28
17 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody
18 (Doc. 10). The R&R recommends that Grounds One through Four and Six through Eight
19 be dismissed with prejudice. The R & R further recommends that Ground Five be denied
20 as none of the claims therein have merit. The Magistrate Judge advised the parties that
21 they had fourteen days to file objections to the R&R. (R&R at 11 (citing 28 U.S.C. §
22 636(b)(1); Fed. R. Civ. P. 6, 72.) Petitioner’s several attempts to file objections of 85 to
23 89 pages were denied as exceeding the 17-page limit on motions, Local Rule LRCiv 7.2(e),
24 without justification. The Court examined the proposed overlength objections and found
25 each to be unjustified, or even unintelligible. Each time the Court granted Petitioner more
26 time to submit a rule-compliant brief. Petitioner’s document filed September 6, 2019 (Doc.
27 67), though not titled as objections to the Report and Recommendation, have been
28 examined and considered as such. Document 67 is largely unintelligible.


1 The Court will overrule any objections by Petitioner and adopt the R & R and will
2 accept the R&R and deny the 28 U.S.C. § 2255 Motion. *See* 28 U.S.C. § 636(b)(1) (stating
3 that the district court “may accept, reject, or modify, in whole or in part, the findings or
4 recommendations made by the magistrate”).

5 IT IS THEREFORE ORDERED that Report and Recommendation of the
6 Magistrate Judge (Doc. 50) is accepted.

7 IT IS FURTHER ORDERED that the Clerk of the Court enter judgment denying
8 Movant’s Amended Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C.
9 § 2255 (Doc. 10). The Clerk shall terminate this action.

10 A certificate of appealability will be denied because (i) the dismissal of Grounds
11 One through Four and Six through Eight are justified by a plain procedural bar and jurists
12 of reason would not find the procedural ruling debatable and (ii) Movant has not made a
13 substantial showing of the denial of a constitutional right with respect to the claims
14 presented in Grounds Five. Petitioner has not shown that “jurists of reason would find it
15 debatable whether the petition states a valid claim of the denial of a constitutional right and
16 that jurists of reason would find it debatable whether the district court was correct in its
17 procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see also* 28 U.S.C. §
18 2253(c)(2); *Gonzalez v. Thaler*, 132 S. Ct. 641, 648 (2012); *Miller-El v. Cockrell*, 537 U.S.
19 322, 327 (2003).

20 Dated: September 9, 2019.

21 
22 _____
23 Neil V. Wake
24 Senior United States District Judge
25
26
27
28